Exhibit I Cause #

73 Am. Jur. 2d Statutes § 120

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Statutes

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V. Interpretation

D. Language of Statute

4. General Presumptions, Implications, and Inferences

§ 120. Rule that expression of particular matters implies exclusion of others

Topic Summary | Correlation Table | References

West's Key Number Digest

West's Key Number Digest, Statutes 195

Enumeration weakens the force of the general law as to things not expressed.[1] In this regard, the canon of construction expressio unius est exclusio alterius or inclusio unius est exclusio alterius holds that to express or include one thing implies the exclusion of another or of the alternative.[2] The maxim "expressio unius est exclusio alterius," that the mention of one thing in a statute impliedly excludes another thing, is used to determine legislative intent.[3] Under the general rule of statutory construction expressio unius est exclusio alterius, the expression of one or more items of a class implies that those not identified are to be excluded.[4]

CUMULATIVE SUPPLEMENT

Cases:

Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. Salinas v. United States Railroad Retirement Board, 141 S. Ct. 691 (2021).

When Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. Collins v. Yellen, 141 S. Ct. 1761 (2020).

Courts generally presume that when Congress includes particular language in one section of a statute but omits it in another, Congress intended a difference in meaning. Maine Community Health Options v. United States, 140 S. Ct. 1308 (2020).

Courts generally presume that Congress acts intentionally and purposely when it includes particular language in one section of a statute but omits it in another. Intel Corporation Investment Policy Committee v. Sulyma, 140 S. Ct. 768 (2020).

When Congress includes particular language in one section of a statute but omits it in another, a court presumes that Congress intended a difference in meaning. Digital Realty Trust, Inc. v. Somers, 138 S. Ct. 767 (2018).

In interpreting a statute, a court will presume that the legislature says what it means and means what it says. Henson v. Santander Consumer USA Inc., 137 S. Ct. 1718 (2017).

The statutory interpretive canon "expressio unius est exclusio alterius" means that expressing one item of an associated group or series excludes another left unmentioned. N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 (2017).

The force of any negative implication, under the statutory interpretive canon expressio unius est exclusio alterius, depends on context, and the expressio unius canon applies only when circumstances support a sensible inference that the term left out must have been meant to be excluded. N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 (2017).

A "notwithstanding" clause in a federal statute does not naturally give rise to an inference, under the statutory interpretive canon expressio unius est exclusio alterius, that a statutory provision unmentioned in the clause has been excluded; it just shows which of two or more provisions prevails in the event of a conflict, confirming rather than constraining breadth, and singling out one potential conflict in the clause might suggest that Congress thought the conflict was particularly difficult to resolve, or was quite likely to arise, but doing so generally does not imply anything about other, unaddressed conflicts, much less that they should be resolved in the opposite manner. N.L.R.B. v. SW General, Inc., 137 S. Ct. 929 (2017).

Absent persuasive indications to the contrary, the Supreme Court presumes Congress says what it means and means what it says. Simmons v. Himmelreich, 136 S. Ct. 1843 (2016).

When Congress includes particular language in one section of a statute but omits it in another, the Supreme Court presumes that Congress intended a difference in meaning. Loughrin v. U.S., 134 S. Ct. 2384 (2014).

Where Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. Sebelius v. Cloer, 133 S. Ct. 1886 (2013).

When a statute specifically provides for exceptions, items not excluded are covered by the statute. In re Guardianship of Eliza W., 304 Neb. 995, 938 N.W.2d 307 (2020).

When a statute specifically provides for exceptions, items not excluded are covered by the statute. Conroy v. Keith County Board of Equalization, 288 Neb. 196, 846 N.W.2d 634 (2014).

When a statute or an administrative rule identifies only a single exception, a negative inference, i.e., that an agency is precluded from recognizing other exceptions, is unlikely. Eastern Oregon Mining Association v. Department of Environmental Quality, 365 Or. 313, 445 P.3d 251 (2019).

When interpreting statutory text, Supreme Court presumes that the expression of one term should be interpreted as the exclusion of another, and will not infer substantive terms into the text that are not already there; Court assumes, absent a contrary indication, that the legislature used each term advisedly and seeks to give effect to omissions in statutory language by presuming all omissions to be purposeful. 2 Ton Plumbing, L.L.C. v. Thorgaard, 2015 UT 29, 345 P.3d 675 (Utah 2015).

[END OF SUPPLEMENT]

Footnotes

1 Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000).

2 City of Rock Hill v. Harris, 391 S.C. 149, 705 S.E.2d 53 (2011); Marblex Design Intern., Inc. v. Stevens, 54 Va. App. 299, 678 S.E.2d 276 (2009); In re Detention of Lewis, 163 Wash. 2d 188, 177 P.3d 708 (2008).

3 Patterson v. Beall, 2000 OK 92, 19 P.3d 839 (Okla. 2000).

4 People v. Lai, 138 Cal. App. 4th 1227, 42 Cal. Rptr. 3d 444 (2d Dist. 2006); Pro-Art Dental Lab, Inc. v. V-Strategic Group, LLC, 986 So. 2d 1244 (Fla. 2008); Davis v. Wallace, 310 Ga. App. 340, 713 S.E.2d 446 (2011), cert. denied, (Nov. 7, 2011); City of Moorhead v. Red River Valley Co-op. Power Ass'n, 2012 WL 254488 (Minn. Ct. App. 2012). Where a statute describes the particular situations in which it is to apply and no qualifying exception is added, an irrefutable inference must be drawn that what is omitted or not included was intended to be omitted or excluded. Raynor v. Landmark Chrysler, 18 N.Y.3d 48, 936 N.Y.S.2d 63, 959 N.E.2d 1011 (2011).

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